

MAR 16 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HORACIO ESTRELLA-AVINA,

Defendant - Appellant.

No. 05-10021

D.C. No. CR-03-02350-CRR/GEE

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted March 8, 2006**

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Horacio Estrella-Avina appeals from his guilty plea conviction and sentence for being an alien in possession of a firearm in violation of 18 U.S.C. §§ 922(b)(5)(B) and 924(a)(2). We have jurisdiction to review the district court's denial of Estrella-Avina's motion to suppress under 28 U.S.C. § 1291. We affirm.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The district court properly denied the motion to suppress because the police officer who stopped Estrella-Avina had reasonable suspicion to justify the traffic stop. The district court did not err in characterizing the officer's conduct in stopping Estrella-Avina as a mistake of fact. *See United States v. Miguel*, 368 F.3d 1150, 1153 (9th Cir. 2004); *cf. United States v. Lopez-Soto*, 205 F.3d 1101, 1106 (9th Cir. 2000).

AFFIRMED.